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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 327X)]

Norfolk Southern Railway Company—Abandonment, Discontinuance of Trackage Rights and Discontinuance of Service—in Cleveland and Rutherford Counties, N.C., and Cherokee County, S.C.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuance of Service for NSR to abandon and discontinue trackage rights and service as follows: (1) NSR will abandon approximately 11.85 miles of rail line, consisting of two line segments, one of which is located between milepost SB 144.55 and milepost SB 154.50 and the other between milepost SB 158.10 and milepost SB 160.00; (2) NSR will discontinue trackage rights granted to it by CSX Transportation, Inc. (CSXT) over approximately 22.8 miles of CSXT track, located between milepost SF 384.6 and milepost SF 407.4;<sup>1</sup> and (3) NSR will discontinue service over approximately 3.20 miles of rail line, extending between milepost SB 144.55 and milepost SB 141.35

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<sup>1</sup> The CSXT track over which NSR has trackage rights connects the two line segments that NSR seeks to abandon.

(collectively, the Line).<sup>2</sup> The Line traverses United States Postal Service Zip Codes 28073, 28152, 28150, 28089, 28114, 28040, 28018, 28043, and 29702.

NSR has certified that: (1) no local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint has been filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line, and no such complaint is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment or discontinuance shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 5, 2015, unless

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<sup>2</sup> NSR states that, although there are different line segments involved, it operates over them as if they were a single line.

stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),<sup>4</sup> and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by July 16, 2015. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by July 27, 2015, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.<sup>5</sup>

A copy of any petition filed with the Board should be sent to NSR's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by July 10, 2015.

Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-

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<sup>3</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

<sup>5</sup> NSR states that it may not have title to the entire right-of-way underlying the rail line segments proposed for abandonment, which could limit the availability of the corridor for other public purposes.

0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by July 6, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at  
“WWW.STB.DOT.GOV.”

Decided: June 26, 2015

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.